

Senate Bill 459

By: Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Brown of the 26th and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, so as to redefine blighted areas; to provide that the condemnation of private property by housing authorities must first be approved by the governing authority of the county or municipality in which such property is located; to amend Chapter 1 of Title 22 of the Official Code of Georgia Annotated, relating to general provisions regarding eminent domain, so as to require that authorities with the power of eminent domain shall not exercise such power with regard to private property without first obtaining approval by the governing authority of the county or municipality in which such property is located; to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to provide that county and municipal authorities with the power of eminent domain shall not exercise such power with regard to private property without first obtaining approval by the governing authority of the county or municipality in which such property is located; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is amended by striking Code Section 8-3-31, relating to the use of eminent domain by housing authorities, and inserting in lieu thereof a new Code Section 8-3-31 to read as follows:

"8-3-31.

An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this article after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes and it obtains the specific approval of the governing authority of the municipality in which the property to be condemned is located or, if the property is not located within a municipality, by the governing authority of the county in

which such property is located. An authority may exercise the power of eminent domain in the manner provided in Title 22; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired, except that no real property belonging to the city, the county, the state, or any political subdivision thereof may be acquired without the consent of such city, county, state, or other political subdivision."

SECTION 2.

Said title is further amended by striking paragraph (1) of Code Section 8-4-3, relating to definitions, and inserting in lieu thereof a new paragraph (1) to read as follows:

"(1) ~~'Blighted areas' means:~~

~~(A) Areas in which there is a predominance of buildings or improvements, or which are predominantly residential in character, and which, by reason of: 'Blighted areas' means areas in which there is a predominance of buildings or improvements, or which are predominantly residential in character, and which, by reason of:~~

~~(i)(A) Dilapidation, deterioration, age, or obsolescence;~~

~~(ii)(B) Inadequate provision for ventilation, light, air, sanitation, or open spaces;~~

~~(iii)(C) High density of population and overcrowding Adverse environmental conditions;~~

~~(iv)(D) The existence of conditions which endanger life or property by fire and other causes; or~~

~~(E) The existence of public safety hazards, including traffic hazards and loitering activities;~~

~~(F) The existence of high crime rates; or~~

~~(v)(G) Any combination of such factors,~~

~~are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime and are detrimental to the public health, safety, morals, or welfare; and~~

~~(B) Areas which, by reason of:~~

~~(i) The predominance of defective or inadequate street layout;~~

~~(ii) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;~~

~~(iii) Insanitary or unsafe conditions;~~

~~(iv) Deterioration of site improvements;~~

~~(v) Diversity of ownership;~~

~~(vi) Tax or special assessment delinquency exceeding the fair value of the land;~~

~~(vii) Defective or unusual conditions of title;~~

~~(viii) Improper subdivision or obsolete platting;~~
~~(ix) The existence of conditions which endanger life or property by fire or other causes;~~
~~or~~
~~(x) Any combination of such factors,~~
~~substantially impair or arrest the sound growth of the community, retard the provision of~~
~~housing accommodations, or constitute an economic or social liability and are a menace~~
~~to the public health, safety, morals, or welfare in their present condition and use."~~

SECTION 3.

Said chapter is further amended by striking Code Section 8-4-4, relating to power of authorities to prepare redevelopment plans and to undertake redevelopment projects, and inserting in lieu thereof a new Code Section 8-4-4 to read as follows:

"8-4-4.

Any housing authority established pursuant to Article 1 of Chapter 3 of this title, the 'Housing Authorities Law,' is authorized to prepare or cause to be prepared redevelopment plans and to undertake redevelopment projects within its area of operation, in accordance with this chapter. In undertaking such redevelopment projects, a housing authority shall have all the rights, powers, privileges, and immunities that such authority has under Article 1 of Chapter 3 of this title, the 'Housing Authorities Law,' and any other provision of law relating to slum clearance and housing projects for persons of low income, including, without limiting the generality of the foregoing, the power to make and execute contracts, to issue bonds and other obligations and give security therefor, to acquire real property by eminent domain or purchase, and to do any and all things necessary to carry out projects in the same manner as though all of the provisions of law applicable to slum clearance and housing projects were applicable to redevelopment projects undertaken under this chapter, provided that nothing contained in Code Sections 8-3-11 and 8-3-12 shall be construed as limiting the power of an authority, in the event of a default by a purchaser or lessee of land in a redevelopment plan, to acquire property and operate it free from the restrictions contained in said Code sections and provided, further, that any exercise of the power of eminent domain must first be specifically approved by the governing authority of the municipality in which the property to be condemned is located or, if the property is not located within a municipality, by the governing authority of the county in which such property is located."

SECTION 4.

Chapter 1 of Title 22 of the Official Code of Georgia Annotated, relating to general provisions regarding eminent domain, is amended by adding a new Code Section 22-1-4.1 to read as follows:

"22-1-4.1.

Notwithstanding any provision of law to the contrary, except as otherwise provided by the Constitution, no authority of any county or municipality in this state that is authorized to exercise the power of eminent domain shall do so unless such authority first obtains the specific approval of the governing authority of the municipality in which the property to be condemned is located or, if the property is not located within a municipality, of the governing authority of the county in which such property is located."

SECTION 5.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by striking subsection (c) of Code Section 36-42-8.1, relating to use of eminent domain by municipality or authority, and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) A downtown development authority may not acquire real property through the exercise of the power of eminent domain until the following conditions and requirements have been met:

(1) The proposed rehabilitation of the property must be set forth in a downtown development plan adopted by the municipality and incorporated in any comprehensive plan of the municipality submitted to the Department of Community Affairs pursuant to Chapter 70 of this title;

(2) The governing body of the municipality shall adopt a resolution specifically approving the proposed use of eminent domain power by the downtown development authority as to the specific parcels of property sought to be condemned;

(3) The downtown development authority shall, in writing, notify the owner of the real property proposed to be acquired of the planned rehabilitation of the property as set forth in the downtown development plan for the downtown development area wherein the property is located;

(4) Within 30 days after being so notified, the owner of the property shall have the option of notifying the downtown development authority, in writing, of ~~his~~ the owner's willingness and intention to rehabilitate and maintain the property in accordance with the downtown development plan. In the event of multiple ownership of the property, unanimous agreement by the owners shall be required, and the failure of any one owner to notify the downtown development authority within the time limitations specified in this

1 paragraph of ~~his~~ the owner's willingness and intention to rehabilitate and maintain the
2 property in accordance with the downtown development plan shall be deemed to be a
3 failure to exercise the option provided in this paragraph; and

4 (5) The owner of such property may execute an agreement with the downtown
5 development authority to rehabilitate the property in accordance with the downtown
6 development plan. Any such agreement shall be as the downtown development authority
7 deems necessary and appropriate as to form and content. In connection therewith, the
8 downtown development authority shall have the right to require sufficient performance,
9 payment, and completion bonds. In the event that any such owner, at any time, fails to
10 comply with or defaults in the performance of the provisions of the agreement, such
11 property shall no longer be subject to the agreement, the option provided by paragraph (4)
12 of this subsection shall no longer apply, and the property may be acquired by the
13 downtown development authority by purchase or through the exercise of the power of
14 eminent domain. In the alternative, the downtown development authority may either
15 specifically enforce the agreement, exercise any rights under any bonds which may have
16 been required, and obtain any other legal or equitable relief as may be available to the
17 downtown development authority or, if the owner fails to exercise the option to
18 rehabilitate the property or defaults on the agreement to rehabilitate the property, the
19 downtown development authority may implement those portions of the downtown
20 development plan with respect to such property to the extent the authority deems
21 necessary and the costs of implementing such plan shall be a lien against the property
22 enforceable in the same manner as a lien for taxes."

23 **SECTION 6.**

24 Said title is further amended by adding a new Code Section 36-60-24 to read as follows:

25 "36-60-24.

26 Except as otherwise provided in the Constitution, no county or municipal authority having
27 the power of eminent domain shall exercise such power with regard to private property
28 without first obtaining the specific approval of the governing authority of the municipality
29 in which such property is located or, if such property is not located in a municipality, of the
30 governing authority of the county in which such property is located."

31 **SECTION 7.**

32 Said title is further amended by striking subsection (c) of Code Section 36-61-9, relating to
33 the exercise of the power of eminent domain by urban redevelopment agencies, and inserting
34 in lieu thereof a new subsection (c) to read as follows:

1 "(c) Unless the property is to be acquired for the purpose of devoting it to a public use, a
2 municipality or county may not acquire real property through the exercise of the power of
3 eminent domain pursuant to subsection (a) of this Code section until the following
4 conditions and requirements have been met:

5 (1) The municipality or county which adopted the urban redevelopment plan has
6 approved a resolution specifically authorizing the exercise of the power of eminent
7 domain by the agency to acquire the specific property sought to be condemned;

8 (2) The municipality or county shall, in writing, notify the owner of the real property
9 proposed to be acquired of the planned rehabilitation of the property as set forth in the
10 urban redevelopment plan for the urban redevelopment area wherein the property is
11 located;

12 (3) Within 30 days after being so notified, the owner of the property shall have the option
13 of notifying the municipality or county, in writing, of ~~his~~ the owner's willingness and
14 intention to rehabilitate and maintain the property in accordance with the urban
15 redevelopment plan. In the event of multiple ownership of the property, unanimous
16 agreement by the owners shall be required; and the failure of any one owner to notify the
17 municipality or county, within the time limitation specified in this paragraph, of ~~his~~ the
18 owner's willingness and intention to rehabilitate and maintain the property in accordance
19 with the urban redevelopment plan shall be deemed to be a failure to exercise the option
20 provided in this paragraph; and

21 (4) The owner of the property may execute an agreement with the municipality or county
22 to rehabilitate the property in accordance with the urban redevelopment plan. Any such
23 agreement shall be as the municipality or county deems necessary and appropriate as to
24 form and content; in connection therewith, the municipality or county shall have the right
25 to require sufficient performance, payment, and completion bonds. In the event that any
26 such owner, at any time, fails to comply with or defaults in the performance of the
27 provisions of the agreement, such property shall no longer be subject to the agreement,
28 the option provided by paragraph (3) of this subsection shall no longer apply, and the
29 property may be acquired by the municipality or county by purchase or through the
30 exercise of the power of eminent domain. In the alternative, the municipality or county
31 may either specifically enforce the agreement, exercise any rights under any bonds which
32 may have been required, and obtain any other legal or equitable relief as may be available
33 to the municipality or county or, if the owner fails to exercise the option to rehabilitate
34 the property or defaults on the agreement to rehabilitate the property, the municipality or
35 county may implement those portions of the urban development plan with respect to such
36 property to the extent the municipality or county deems necessary and the costs of

3 **SECTION 8.**
4 All laws and parts of laws in conflict with this Act are repealed.

SECTION 8.

4 All laws and parts of laws in conflict with this Act are repealed.